



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2

CARIBBEAN ENVIRONMENTAL PROTECTION DIVISION
CITY VIEW PLAZA II, SUITE 7000
#48 165 RD. KM 1.2
GUAYNABO, PUERTO RICO 00968-8069

CERTIFIED MAIL /
RETURN RECEIPT REQUESTED

February 5, 2014

Mr. Benjamín Cintrón
Project Manager
Homeca Recycling Inc.
1575 Muñoz Rivera Ave.
PMB120 Ponce, Puerto Rico 00717-0211

Roberto Aponte
Tallaboa Industrial Park, LLC
Road 385, Km. 5.4, Barrio Tallaboa Poniente
Peñuelas, Puerto Rico 00624

Re: Compliance Order CAA-02-2014-1009

Dear Sirs:

The United States Environmental Protection Agency has made a finding that Homeca Recycling Inc. and Tallaboa Industrial Park, LLC have violated the Clean Air Act ("CAA"), 42 U.S.C § 7401 *et seq.* The specific violations are described in the enclosed Compliance Order, and future compliance with the CAA is required.

Should you have any questions or comments, please contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "José C. Font", is written over a horizontal line.

José C. Font
Director,
Caribbean Environmental Protection Division
US Environmental Protection Agency, Region 2

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2**

In the Matter of:

Tallaboa Industrial Park

Homeca Recycling and Demolition, Corp.
and Tallaboa Industrial Park, LLC

Respondents

COMPLIANCE ORDER

Index No. CAA-02-2014-1009

PRELIMINARY STATEMENT

The United States Environmental Protection Agency ("EPA") Region 2, Director of the Caribbean Environmental Protection Division ("CEPD") issues this COMPLIANCE ORDER, pursuant to Sections 113(a) and 114 of the Clean Air Act ("CAA" or the "Act"), 42 U.S.C. §§ 7413(a) and 7414, to the Homeca Recycling and Demolition, Corp. ("Homeca") and Tallaboa Industrial Park, LLC ("Tallaboa") (collectively the "Respondents"), at its Tallaboa Industrial Park, located in Peñuelas, Puerto Rico, for violations of Section 112 of the CAA and the National Emission Standard for Asbestos, 40 C.F.R. Part 61, Subpart M ("Asbestos NESHAP"), which was promulgated pursuant to Sections 112 and 114 of the Act. The authority to find a violation and issue compliance orders in the Commonwealth of Puerto Rico and the US Virgin Islands has been delegated to the Director of CEPD from the Administrator through the Regional Administrator.

STATUTORY AND REGULATORY BACKGROUND

The Clean Air Act

1. Section 112 of the Act requires the Administrator to publish a list of hazardous air pollutants ("HAPs"), a list of categories and subcategories of major and area sources of listed HAPs, and to promulgate regulations establishing emission standards, referred to as National Emissions Standards for Hazardous Air Pollutants ("NESHAPs") for each category or subcategory of major and area sources of HAP.

2. Section 112(b)(1) of the Act provides the initial list of HAPs and Section 112(b)(2) requires the Administrator to periodically review the list and, where appropriate, revise it.

3. Section 112(c) of the Act requires the Administrator to publish a list of categories or subcategories of major and area sources of listed HAPs.

4. Section 112(d) of the Act requires the Administrator to promulgate regulations establishing NESHAPs for each category or subcategory of major and area sources of HAPs. NESHAPs promulgated under the CAA as it existed prior to the 1990 CAA amendments are set forth in 40 C.F.R. Part 61.

5. Section 112(h) of the Act authorizes EPA to promulgate design, equipment, work practice, or operational standards, or combinations thereof, which are consistent with Section 112(d) or (f) of the Act, to the extent that it is not feasible to prescribe or enforce an emission standard for control of a HAP. Pursuant to Section 112(d)(2)(D) and (E) of the Act, design, equipment, work practice, or operational standards, or combinations thereof, promulgated under Section 112(h) of the Act, are treated as emission standards.

6. Section 112(i)(3)(A) prohibits the operation of a source in violation of any emissions standard, limitation or regulation issued pursuant to Section 112, and directs the Administrator to set a compliance deadline for existing sources that is no more than 3 years after the effective date of the standard.

7. Section 114 of the Act authorizes the EPA Administrator to require testing, monitoring, record-keeping, and reporting of information, to enable him or her to carry out any provision of the Act (except certain provisions in subchapter II) and to assess compliance with, among other requirements, any regulations promulgated under Sections 112 of the Act.

8. Section 113(a)(3) of the Act authorizes EPA to, among other actions, issue compliance orders to any person whenever, on the basis of any information available to EPA, EPA finds that such person has violated or is in violation of any requirement or prohibition of Title I of the Act, or any regulation promulgated pursuant to Sections 112 and 114 of the Act.

9. Section 302(e) of the Act provides that whenever the term “person” is used in the Act, the term includes an individual, corporation, partnership, association, state, municipality, political subdivision of a State, and any agency, department, or instrumentality of the United States and any officer, agent, or employee thereof.

The Asbestos NESHAP, 40 C.F.R. Part 61, Subpart M

10. The Asbestos NESHAP specifies a set of work practice standards, set forth at 40 C.F.R. §§ 61.145 and 61.150, which are applicable to the owners and operators of renovation or demolition activities in which the amount of Regulated

Asbestos-Containing Material ("RACM") that is stripped, removed, dislodged, cut, drilled or similarly disturbed is at least 80 linear meters (260 linear feet) on pipes or at least 15 square meters (160 square feet) on other facility components or at least 1 cubic meter (35 cubic feet) when the length or area could not be measured prior to the asbestos removal/demolition activity.

11. The term "owner or operator of a renovation or demolition activity" is defined by 40 C.F.R. § 61.141 to mean "any person who owns, leases, operates, controls or supervises the facility being demolished or renovated or any person who owns, leases, operates, controls or supervises the demolition or renovation operation, or both."

12. The term "renovation" is defined by 40 C.F.R. § 61.141 to mean "altering of a facility or one or more facility components in any way, including the stripping or removal of RACM from a facility component. Operations in which load-supporting structural members are wrecked or taken out are demolitions."

13. The term "demolition" is defined by 40 C.F.R. § 61.141 to mean "the wrecking or taking out of any load-supporting structural member of a facility together with any related handling operations or the intentional burning of any facility."

14. The term "facility" is defined by 40 C.F.R. § 61.141 to include, among other things, "any institutional, commercial, public, industrial, or residential structure, installation, or building (including any structure, installation or building containing condominiums or individual dwelling units operated as a residential cooperative, but excluding residential buildings having four or fewer dwelling units)."

15. The term "facility component" is defined by 40 C.F.R. § 61.141 to mean "any part of a facility including equipment."

16. The term "regulated asbestos-containing material" or RACM is defined by 40 C.F.R. § 61.141 to include friable asbestos containing material.

17. The term "friable asbestos material" is defined by 40 C.F.R. § 61.141 to mean any material containing more than 1 percent asbestos that when dry can be crumbled, pulverized or reduced to powder by hand pressure.

18. 40 C.F.R. § 61.145(a) provides that the affected facility, or part of a facility, where a demolition or renovation is to take place must be thoroughly inspected for the presence of asbestos prior to the commencement of the demolition or renovation activity.

19. 40 C.F.R. § 61.145(b) provides that each owner or operator of a demolition or renovation activity to which this Section applies shall: (1) provide the Administrator with written notice of the intention to demolish or renovate; (2) update the notice as necessary; and (3) postmark or deliver the notice as follows: at least ten (10) working days before demolition or renovation activity begins.

20. 40 C.F.R. § 61.145(c)(1) provides that each owner or operator of a demolition or renovation activity must remove all RACM from the facility being renovated or demolished before any activity begins that may break up, dislodge, or disturb the material.

21. 40 C.F.R. § 61.145(c)(3) provides that when RACM is stripped from a facility component while it remains in place in the facility, the owner and/or operator must adequately wet the RACM during the stripping operation.

22. 40 C.F.R. § 61.145(c)(6)(i) provides that the owner or operator of a demolition or renovation activity subject to the Asbestos NESHAP must adequately wet all RACM including the material that has been removed or stripped and ensure that it remains wet until collected and contained or treated in preparation for disposal.

23. 40 C.F.R. § 61.145(c)(8) provides that no RACM may be stripped, removed, or otherwise handled or disturbed at a facility regulated under the Asbestos NESHAP unless at least one on site representative, trained in the Asbestos NESHAP is present. In addition, this section provides that every two years the trained on-site individual shall receive refresher training.

24. 40 C.F.R. § 61.150(a)(1)(iii) provides that each owner or operator of a demolition or renovation activity subject to the Asbestos NESHAP must seal all RACM in leak-tight containers while wet.

25. 40 C.F.R. § 61.150(a)(1)(iv) provides that the containers or wrapped materials specified in paragraph (a)(1)(iii) must be labeled using the warning labels specified by Occupational Safety and Health Standards of the Department of Labor, Occupational Safety and Health Administration ("OSHA") under 29 CFR 1910.1001(j)(4) or 1926.1101(k)(8).

26. 40 C.F.R. § 61.150(a)(1)(v) provides that for asbestos-containing waste material to be transported off the facility, the containers or wrapped materials must be labeled with the name of the waste generator and the location at which the waste was generated.

FINDINGS OF FACT

27. Respondent Tallaboa, a Puerto Rico limited liability company registered to do business in the Commonwealth of Puerto Rico, is the owner/operator of the Tallaboa Industrial Park (former Puerto Rico Olefins Petrochemical Complex), located at Road 385 Km. 5.4, Tallaboa Poniente Ward, in Peñuelas, Puerto Rico (the "Facility"). The Facility is approximately 10 acres in size and includes buildings, distillation towers, pipelines, boilers, tanks and piles of debris.

28. According to information provided by Respondents, in 2009, Respondent Tallaboa hired Respondent Homeca, a corporation registered to do business in the Commonwealth of Puerto Rico, to conduct scrap metal removal, asbestos mitigation, and demolition and renovation activities at the Facility.

29. On November 19, 2013, EPA attempted to conduct a compliance inspection at the Facility and in the area in its vicinity under the authority of the CAA and the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA"), 42 U.S.C. § 9601, *et seq.*, (the "1st Inspection"). The purpose of the 1st Inspection was to perform a site reconnaissance and conduct sampling activities in order to verify that demolition activities conducted at the Facility by Respondents were in compliance with the CAA, and to determine whether there were releases or threatened releases of hazardous substances under CERCLA. In particular, this 1st Inspection sought also to address citizen complaints that EPA received alleging that Respondents had been conducting demolition and asbestos removal activities at the Facility without taking necessary precautions and measures to prevent the release

of dust clouds containing suspected asbestos containing materials ("ACM") which may have impacted the nearby community.

30. During the 1st Inspection, EPA inspectors could not access the Facility since it was closed. Nonetheless, from an area outside of the Facility, EPA inspectors observed that:

- a. dry weather conditions were prevailing in the area;
- b. there were no on-going demolition activities;
- c. clouds of dust/particulate matter were being blown away from piles of demolition debris accumulated at the Facility into the ambient air and migrating toward areas beyond the Facility with no particulate emission control methods in place; and
- d. there had been poor work practices at the Facility, including allowing uncontained materials such as suspected RACM (thermal system insulation), pipes, process equipment such as distillation towers, surge drums, and other vessels to be scattered and crumpled on the ground.

31. On November 21, 2013, EPA conducted a follow-up inspection at the Facility (the "2nd Inspection") in order to verify that on-going demolition and renovation activities performed at the Facility by Respondents were in compliance with the CAA and to verify whether there was a potential imminent release of asbestos fibers into the environment. At the Facility, EPA met with representatives of both Respondents.

32. During the 2nd Inspection, EPA observed amounts of suspected RACM on facility components and/or structures that exceeded the Asbestos NESHAP thresholds of 260 linear feet on pipes, 160 square feet on other components, or at least 35 cubic feet on other facility components when the length of the area could not be measured prior to Respondent's asbestos removal/demolition activity.

33. During the 2nd Inspection, EPA conducted sampling activities to determine whether there was RACM that was present at the Facility and whether it had been released. A total of twenty (20) samples were taken at strategic locations at and near the Facility where there was a potential for asbestos contamination. Samples taken included five (5) bulk samples (thermal system insulation material located on the ground and scattered throughout the Facility), five (5) soil samples, and ten (10) wipe samples (including samples taken outside of the Facility property at El Velorio Restaurant, from a metal fence [safety barrier] on the Road No. 2 highway, at a nearby residence and at the Jorge Lucas Pérez Valdivieso School).

34. During the 2nd Inspection, EPA requested that Respondents provide information related to the asbestos abatement, demolition and renovation project at the Facility. This information included, among other things, building survey reports, asbestos work plans, and permitting information.

35. At the time of the 2nd Inspection, Respondents were unable to provide EPA with the information requested.

36. Respondents informed EPA that they had initiated asbestos abatement activities at the Facility in 2010, that demolition and renovation activities commenced in February 2013, and that these activities were performed by Respondent Homeca.

37. During the 2nd Inspection, EPA observed:

- a. that demolition and renovation activities were ongoing;
- b. large concentrations of demolition debris and scrap metal with associated heavy dust were accumulated in piles and also scattered throughout the Facility, which were suspected of containing RACM from the demolition and renovation activities;

- c. that no dust abatement controls and no emission control devices or mechanisms were in-place;
- d. that the suspected friable RACM was not adequately wet nor sealed in leak-tight containers while wet; and
- e. that none of the piles containing debris and scrap metal with suspected RACM had warning labels as required by the Occupational Safety and Health Standards of the Department of Labor, Occupational Safety and Health Administration ("OSHA").

38. On or about November 27, 2013, sampling analyses revealed the presence of asbestos fibers at and beyond of the Facility which indicated the following: in bulk samples, up to 40% amosite and 20% chrysotile; in soil samples, results ranging from 3 to 9 amosite/chrysotile asbestos structures; and in wipe samples, results ranging from 7,760 to 374,000 structures per square centimeter (str/cm²).

39. On November 27, 2013, EPA issued Respondents a Field Notice of Federal Interest ("FNFI") under CERCLA. The FNFI stated, among other things, that a release and/or threat of release of hazardous substances, pollutants, or contaminants was detected on November 19, 2013, at and beyond the Facility as a result of ongoing demolition activities at the Site. Such release consisted of ACM in a friable form. The FNFI also requested Respondents to cease all demolition and related activities that could potentially result in the further migration of asbestos fibers into the environment. The FNFI also requested Respondents to report immediately to EPA those removal activities that had been performed and those removal activities planned to prevent, correct, clean up, minimize or mitigate the release and/or threatened release of hazardous substances, pollutants, or contaminants (asbestos) at the Facility, in conformance with CERCLA. EPA called Respondents to notify about the issuance of the FNFI, its contents and ordered provisions.

40. On November 29, 2013, EPA issued to Respondents an Information Request Letter pursuant to Section 114 of the CAA, EPA Index No. CAA-02-2014-1451 ("Information Request Letter"), in order to verify Respondents' compliance with federal and Commonwealth laws and regulations related to the permitting processes applicable to the asbestos abatement and demolition and renovation activities that Respondents had been conducting at the Facility. An EPA inspector also performed a review of EPA and the Puerto Rico Environmental Quality Board ("PREQB") records (the "EPA File Review").

41. On December 10, 2013, Respondents transmitted their answer to EPA's Information Request Letter.

42. The EPA File Review and Respondents' answer to EPA's Information Request Letter revealed the following:

a. in January 2010, Respondent Homeca started the PREQB permitting application process for the scrap metal removal and asbestos mitigation activities to be conducted in different areas of the Facility. Respondent Homeca also started to develop the asbestos materials abatement plan. Accordingly, Respondents obtained the following permits issued by PREQB:

- i. Permit No. PG-ASB-57-0910-0215-RC, issued on September 28, 2010, and expiring on September 27, 2011, for Areas 1-7 at the Facility;
- ii. Permit No. PG-ASB-57-0911-0112-RC, issued on September 30, 2011, and expiring on September 30, 2012, for Areas 8 and 9 at the Facility; and
- iii. Permit No. PG-ASB-57-1212-0175-RC, issued on November 12, 2012, and expiring on November 12, 2014, for Areas 10 and 11 at the Facility.

b. Respondents submitted the following *USEPA Notification of Demolition and Renovation* forms to EPA for asbestos demolition and removal activities to be conducted at the Facility:

- i. on March 2, 2010, Respondents submitted a notification to EPA of their intention to remove approximately 10,000 linear feet of RACM and 12,000 square feet of non-friable asbestos containing material from the Facility. In the notification, Respondent Homeca was identified as the removal contractor for the asbestos abatement, demolition and renovation activities at the Facility. The period scheduled for conducting demolition and asbestos removal at the Facility was from March 13, 2010, to March 12, 2011;
- ii. on April 19, 2011, Respondents submitted another notification to EPA of their intention to remove approximately 9,000 linear feet of RACM and 8,000 square feet of non-friable asbestos containing material from the Facility. In the notification, Respondent Homeca was identified as the removal contractor for the asbestos demolition and renovation activities at the Facility. The period scheduled for conducting demolition activities at the Facility was from June 1, 2011, to May 31, 2012, and for conducting asbestos removal activities was from October 14, 2010, to December 31, 2011;
- iii. on November 5, 2012, Respondents submitted another notification to EPA of their intention to remove approximately 80 linear feet of RACM and 800 square feet of non-friable asbestos containing material from the Facility. In the notification, Respondent Homeca was identified as the removal contractor for the asbestos demolition and renovation activities at the Facility. The period scheduled for conducting demolition activities at the Facility was from October 15, 2012, to October 15, 2013, and for conducting asbestos removal activities was from December 1, 2012, to December 31, 2012;
- iv. on May 15, 2013, Respondents submitted another notification to EPA of their intention to remove approximately 80 linear feet of RACM and 800 square feet of non-friable asbestos containing material from the Facility. In the notification, Respondent Homeca was identified as the removal contractor for the asbestos demolition and renovation activities at the Facility. The period scheduled for conducting demolition activities at the Facility was from October 15, 2012, to October 15, 2013, and for conducting asbestos removal activities was from January 1, 2013, to October 15, 2013; and

- v. on November 14, 2013, Respondents submitted another notification to EPA of their intention to remove approximately 80 linear feet of RACM and 800 square feet of non-friable asbestos containing material from the Facility. In the notification, Respondent Homeca was identified as the removal contractor for the asbestos demolition and renovation activities at the Facility. The period scheduled for conducting demolition activities at the Facility was from October 15, 2013, to October 15, 2014.
- c. on October 14, 2010, Respondents initiated RACM abatement activities at the Facility;
- d. on April 29, 2012, the Puerto Rico Office of Permit Management issued Respondents a Demolition Permit No. 2012-009772-PDE-05800, to conduct demolition activities at the Facility. On January 16, 2013, PREQB issued to Respondents a Consolidated General Permit No. 2012-111200-PGC-12460, to conduct demolition activities at the Facility. This permit expires on January 16, 2018; and
- e. in February 2013, Respondents initiated demolition and renovation activities at the Facility.

CONCLUSIONS OF LAW

Based on the Findings of Fact cited above, EPA finds that:

- 43. Respondents are persons within the meaning of Section 302(e) of the CAA.
- 44. Respondents are owners or operators of a demolition or renovation activity within the meaning of Asbestos NESHAP 40 C.F.R. § 61.141.
- 45. Respondent violated: (a) 40 C.F. R. § 61.145(a) by, prior to the commencement of demolition or renovation, failing to thoroughly inspect the Facility where the demolition or renovation activity occurred for the presence of asbestos; (b) 40 C.F.R. § 61.145(c)(1) by failing to remove all RACM from the Facility before beginning activities which would disturb that material; (c) 40 C.F.R. § 61.145(c)(3) by failing to

adequately wet RACM during a stripping operation; (d) 40 C.F.R. § 61.145(c)(6)(i) by failing to wet all RACM and ensure it remains wet until collected and contained or treated in preparation for disposal; (e) 40 C.F.R. § 61.150(a)(1)(iii) by failing to seal all RACM in leak-tight containers while wet; (f) 40 C.F.R. § 61.150(a)(1)(iv) by failing to label the containers or wrapped materials containing RACM using the warning labels specified by OSHA under 29 C.F.R. §§ 1910.1001(j)(4) or 1926.1101(k)(8); and (g) 40 C.F.R. § 61.150(a)(1)(v) by failing to label the container or wrap materials containing asbestos- waste material to be transported off the facility with the name of the waste generator and the location at which the waste was generated.

46. Respondents' violations of the Asbestos NESHAPs are violations of Section 112 of the Act.

ORDER

Based on the Findings of Fact and Conclusions of Law above, pursuant to Sections 113(a)(4) and 114 of the Act, IT IS DETERMINED AND ORDERED that:

I.

The provisions of this Order shall apply to Respondents and their officers, agents, servants, employees, successors and to all persons, firms and corporations acting under, through or for Respondents.

II.

Respondents shall perform all renovation/demolition operations at the Facility and at any and all other facilities in which friable asbestos is present in compliance with all applicable provisions of the CAA Asbestos NESHAP regulations.

III.

Respondent shall immediately cease all renovation or demolition activity at the Facility until the completion of the asbestos abatement plan described in Paragraph V below.

IV.

Respondents shall immediately adequately wet and cover with polyethylene sheeting or place in leak-tight containers bags all RACM and shall ensure that the containers and associated spillage remain adequately wet and covered until the RACM is properly collected for disposal. Respondent shall notify EPA that it has wet and covered the containers and associated spillage within 24 hours of completion. Respondents shall label such containers using the warning labels specified by OSHA under 29 CFR §§ 1910.1001(j)(4) or 1926.1101(k)(8) and specifying the name of the waste generator and the location at which the waste was generated as specified in 40 C.F.R. §§ 61.150(a)(1)(i), (a)(1)(iii) and (a)(1)(v).

V.

Upon the effective date of this Order (which is specified below in the section entitled "Effective Date and Opportunity for a Conference") Respondents shall submit a comprehensive asbestos abatement plan for the entire Facility for EPA's approval. This plan shall be prepared by an AHERA accredited project designer. The Abatement Plan shall include, among other things, a site diagram and plans for daily perimeter air monitoring during abatement. The Abatement Plan shall require that representative samples of suspect RACM be taken from components in all buildings that will be

demolished, renovated or disturbed. In addition, the Abatement Plan shall require that a representative number of samples will be taken of the soil at and adjacent to the Facility buildings, including those buildings where demolition or renovation activity has occurred already. The Abatement Plan shall identify all sampling locations. The Abatement Plan shall require the proper remediation of any and all RACM including RACM - contaminated soil. After EPA approval, Respondent shall immediately fund and implement the Abatement Plan and notify EPA when the Abatement Plan is completed. Conformance with the Abatement Plan does not absolve or otherwise release Respondents from any liability stemming from any new violations found at the Facility.

VI.

The notifications required by Paragraphs III and IV above, as well as the asbestos abatement plan and site diagram required by Paragraph V above, shall be sent via overnight service to:

Mrs. Nancy Rodríguez
Acting Branch Chief
Multi-Media Permits and Compliance Branch
Caribbean Environmental Protection Division
US Environmental Protection Agency, Region 2
City View Plaza II, Suite 7000
#48 RD. 165 km 1.2
Guaynabo, PR 00968-8069.

BUSINESS CONFIDENTIALITY

Respondents may assert a business confidentiality claim covering part or all of the information this Order requires only to the extent and in the manner described in 40 C.F.R. § 2.203. EPA will disclose information submitted under a confidentiality claim only as provided in 40 C.F.R. Part 2, Subpart B and 41 Fed. Reg. 36,902 (1976). If

Respondents do not assert a confidentiality claim, EPA may make the information available to the public without further notice to Respondents.

ENFORCEMENT

Section 113(a)(3) of the Act authorizes EPA to take any of the following actions in response to Respondents' violation of the Act:

- issue an administrative penalty order, for penalties up to \$25,000 per day pursuant to Section 113(d) of the Act and adjust the maximum penalty provided by the Act up to \$27,500 per day for each violation that occurs from January 30, 1997 through March 14, 2004, \$32,500 per day for each violation that occurs on or after March 15, 2004, and \$37,500 per day for each violation that occurs after January 12, 2009, in accordance with the Debt Collection Improvement Act, 31 U.S.C. 3701 *et seq.* (DCIA), and 40 C.F.R. Part 19, promulgated pursuant to DCIA; and
- bring a civil action pursuant to Section 113(b) of the Act for injunctive relief and/or civil penalties and adjust these penalties for inflation in accordance with the DCIA and 40 C.F.R. Part 19.

Failure to comply with this Order may result in an administrative or civil action for appropriate relief as provided in Section 113 of the Act. EPA retains full authority to enforce the requirements of the Act and nothing in this Order shall be construed to limit that authority. Furthermore, the United States may seek fines and/or imprisonment of any party who knowingly violates the Act or an Order issued pursuant to Section 113 of the Act. Upon conviction, any facility owned by such party may be declared ineligible for federal contracts, grants, and loans (42 U.S.C. § 7606, 40 C.F.R. Part 15, and Executive Order 11738).

Respondent may seek federal judicial review of the Order pursuant to Section 307(b)(1) of the Act, 42 U.S.C. § 7607(b)(1).

PENALTY ASSESSMENT CRITERIA

Section 113 (e)(1) of the Act states that if a penalty is assessed pursuant to Section 113 or Section 304(a) of the Act, the Administrator or the court, as appropriate, shall, in determining the amount of a penalty to be assessed, take into consideration the size of the business, the economic impact of the penalty on the business, the violator's full compliance history and good faith efforts to comply, the duration of the violation as established by any credible evidence, the payment by the violator of penalties previously assessed for the same violation, the economic benefit of non-compliance, the seriousness of the violation, and such other factors as justice may require.

Section 113(e)(2) of the Act allows the Administrator or the court, as appropriate, to assess a penalty for each day of the violation. For purposes of determining the number of the days of the violation, the days of violation shall be presumed to include the day the violation began and every day thereafter until Respondent establishes that continuous compliance has been achieved. If Respondents can prove, by the preponderance of the evidence, that there were intervening days during which no violation occurred or that the violation was not continuous in nature, then the EPA will reduce the penalty accordingly.

EFFECTIVE DATE AND OPPORTUNITY FOR A CONFERENCE

Pursuant to Section 113(a)(4) of the Act, Respondents may request a conference with EPA concerning the violation(s) alleged in this Order. This conference will enable Respondents to present evidence bearing on the finding of violations, on the nature of the violations, and on any efforts it may have taken or it proposes to take to achieve compliance. Respondents may arrange to have legal counsel.

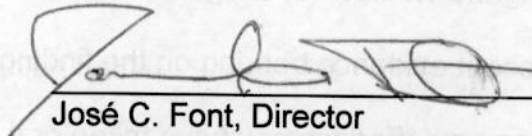
Respondents' request for a conference, to be held no later than ten (10) days from receipt of this Order, must be confirmed in writing within five (5) days of receipt of this Order. If the requested conference is held, the Order shall become effective five (5) days after the conference is held.

If the Respondents do not request a meeting within five (5) days of receipt of this Order, the above Order shall become effective five (5) days from its receipt. The request for a conference, or other inquiries concerning this Order, should be made in writing to:

Héctor L. Vélez Cruz, Esq.
Lead General Attorney
Associate Regional Counsel for Caribbean Programs
Office of Regional Counsel
US Environmental Protection Agency, Region 2
City View Plaza II, Suite 7000
#48 RD. 165 km 1.2
Guaynabo, PR 00968-8069
phone: 787.977.5850
email: velez.hector@epa.gov.

Notwithstanding the effective date of this Order and opportunity for conference discussed above, the Respondents must comply with all applicable requirements of the Act and regulations promulgated pursuant to the Act.

Dated: February 5, 2014



José C. Font, Director
Caribbean Environmental Protection Division
U.S. Environmental Protection Agency – Region 2

To: Mr. Benjamín Cintrón
Project Manager
Homeca Recycling Inc.
1575 Muñoz Rivera Ave.
PMB120 Ponce, Puerto Rico 00717-0211

Roberto Aponte
Tallaboa Industrial Park, LLC
Road 385, Km. 5.4, Barrio Tallaboa Poniente
Peñuelas, Puerto Rico 00624

cc: Mrs. Laura Vélez
Chairwoman
Puerto Rico Environmental Quality Board